# AGENDA TRAVERSE CITY BOARD OF ZONING APPEALS REGULAR MEETING TUESDAY, JULY 12, 2016 7:00 P.M.

Committee Room, Governmental Center, 2<sup>nd</sup> Floor 400 Boardman Avenue Traverse City, Michigan 49684 231-922-4464

- 1. CALL MEETING TO ORDER
- 2. ROLL CALL
- **3. APPROVAL OF MINUTES-** Approval of the June 14, 2016 regular meeting minutes.
- 4. REQUEST 16-BZA-02 A REQUEST FROM NORTHPORTE DEVELOPMENT, 1776 KOZY COURT, INTERLOCHEN, MICHIGAN for:

A dimensional variance to allow for a reconstructed driveway to be less than 100 feet from existing driveways to the north and south on South Garfield Avenue.

- 5. PUBLIC COMMENT
- 6. OTHER BUSINESS

Election of Officers.

#### 7. ADJOURNMENT

The City of Traverse City does not discriminate on the basis of disability in the admission or access to or treatment or employment in, its programs or activities. Penny Hill, Assistant City Manager, 400 Boardman Avenue, Traverse City, Michigan, 49684, 922-4440, T.D.D., 922-4766, has been designated to coordinate compliance with the non-discrimination requirements contained in Section 35.107 of the Department of Justice regulations. Information concerning the provisions of the Americans with Disabilities Act, and the rights provided thereunder, are available from the ADA Coordinator. If you are planning to attend and you have a disability requiring any special assistance at the meeting and/or if you have any concerns, please immediately notify the ADA Coordinator.

# MINUTES TRAVERSE CITY BOARD OF ZONING APPEALS REGULAR MEETING TUESDAY, JUNE 14, 2016 7:00 P.M.

Commission Chamber, Governmental Center, 2<sup>nd</sup> Floor 400 Boardman Avenue Traverse City, Michigan 49684 231-922-4464

PRESENT: Members Raferty, Hanley, Colombo, Szajner, Carol, Koebert, and Vice-

Chairperson Callison.

**ABSENT:** Members Matson, Donaldson and Chairperson Cockfield.

#### 1. CALL MEETING TO ORDER

The meeting was called to order at 7:00 p.m.

2. APPROVAL OF MINUTES- Approval of the May 10, 2016 regular meeting minutes.

Motion by Member Koebert, seconded by Member Carol to approve the May 10, 2016 regular meeting minutes as presented. Upon vote the motion carried 7-0.

3. PUBLIC COMMENT

None.

4. OTHER BUSINESS

None.

#### 5. ADJOURNMENT

The meeting was adjourned at 7:05 p.m.

David Weston,	Planning	and	Zoning	Administra	tor
Date:					



## Communication to the Board of Zoning Appeals

FOR THE MEETING OF:

JULY 5, 2016

FROM:

DAVID WESTON, ZONING ADMINISTRATOR

DMU

SUBJECT:

**REQUEST 16-BZA-02** 

DATE:

JULY 12, 2016

You have a request Northporte Development, 1776 Kozy Court, Interlochen, Michigan for relief from the zoning laws to allow for a reconstructed driveway to access Garfield Avenue for the properties commonly known as **1106**, **1120** and **1128** East Front Street (former Arby's location).

The applicant would like to construct a pharmacy, retail building and coffee shop with a drive-through located at the properties mentioned and reconstruct an existing driveway located on South Garfield Avenue. When a new building and parking lot is constructed the minimum driveway spacing requirements in the Zoning Code must be met. The properties mentioned are zoned C-3 (Community Center District) and a driveway cannot be any closer than 100 feet (with City Engineer approval) from an existing driveway (§1374.04(c)). As proposed, the reconstructed driveway will be approximately 72 feet from an existing driveway to the north (Bardon's wonder Freeze) and approximately 76 feet from an existing driveway to the south. The applicant will be requesting dimensional variance to allow for the reconstructed driveway to be less than 100 feet from the existing driveways to the north and south on South Garfield Avenue.



#### City of Traverse City

APPLICATION FEE: \$240.00 Check Number: 05260460 Receipt Number: 18/69 Date of Application: 6-21-16

Date of Public Hearing: 7-12-16

Case Number: 16-1374-02

## TRAVERSE CITY BOARD OF ZONING APPEALS A P P L I C A T I O N

for Variance, Exception, Appeal, Ordinance Interpretation or Reconsideration

PROPERTY DESCRIPTION (legal description AND property address): 1106, 1120, AND 1128 EAST FRONT ST.
SEE ATTACHED FOR LEGAL DESCRIPTIONS
REQUEST AND PROPOSED PROJECT:
VARIANCE FOR GARFIELD AVE. DRIVE LOCATION (S
VARIANCE FOR GARFIELD AVE. DRIVE LOCATION S PROPOSED PROJECT: RITE AID STARBUCKS DEVEL
TO BE COMPLETED BY ZONING ADMINISTRATOR:
Request: Appeal for Administrative Decision
Interpretation of Ordinance
Exception
Variance
NORTHPORTE DEVELOPMENT, LLC Name: Phone: (231) 218-604 Fax: -
Name: Phone: (231) 218-604 Fax:
Address: 1776 KOZY COUPT, NTERLOCHEN, MI 49643
Signature of Owner: 1 Hu & Hung
William House
Signature of Applicant (if different):
Relationship of Applicant to Owner:
APPLICATIONS MUST BE RECEIVED A MINIMUM OF 21 DAYS PRIOR
TO THE MEETING AT WHICH THE REQUEST WILL BE CONSIDERED.
REPRESENTATION AT HEARING: THE APPLICANT OR THE APPLICANT'S

REPRESENTATION AT HEARING: THE APPLICANT OR THE APPLICANT'S AUTHORIZED AGENT MUST BE PRESENT AT THE PUBLIC HEARING TO PROPERLY ANSWER QUESTIONS CONCERNING THE APPEAL. IF THE APPLICANT OR AGENT IS NOT PRESENT, THE APPEAL MAY BE DEFERRED UNTIL THE NEXT MEETING OR DISMISSED AT THE DISCRETION OF THE BOARD.

\*\*\* PLEASE NOTE THE REVERSE SIDE FOR SITE PLAN REQUIREMENTS \*\*\*



June 21, 2016

Mr. David Weston, Zoning Administrator City of Traverse City 400 Boardman Avenue Traverse City, MI 49694

Re: Board of Zoning Appeals Application for Proposed Rite Aid, Starbucks, and Retail Building 1106, 1120, and 1128 East Front Street

Dear Dave,

On behalf of Northporte Development, LLC, please find the following documents related to a Board of Zoning Appeals (BZA) Application for the proposed redevelopment of the properties located at 1106, 1120, and 1128 East Front Street:

- Board of Zoning Appeals Application
- 2. Application fee
- 3. One (1) Site Plan
- 4. One (1) copy of email correspondence between the Michigan Department of Transportation and the City of Traverse City

As previously discussed, we are submitting this BZA Application to accompany the Site Plan Review Application for the project in question. The proposed project intends to redevelop the properties listed above, removing the existing Arby's building and office building that currently occupy the site. It is proposed that the existing curb cut and driveway on Garfield Avenue be maintained and improved to provide customer and truck access to the proposed development. As shown on the attached Site Plan, the distances between the improved Garfield Avenue driveway and the adjacent driveways to the north and south are approximately 72' and 76', respectively.

Section 1374.04 paragraph (c) of the City of Traverse City Zoning Ordinance (Ordinance) requires a minimum driveway spacing on arterial and collector streets of 200′. Section 1374.04 paragraph (e) subparagraph (3) of the Ordinance allows the City Engineer to reduce this distance by 50%, or 100′, so long as the reduction meets the following criteria:

- A. The character of the street or neighborhood shall not be diminished or negatively impacted.
- B. It is necessary for reasonable use of the lot.
- C. It shall not contravene the intent and purpose of this Zoning Code.
- D. It meets other conditions the City Engineer may specify regarding the health and safety aspects of the exception.

It is requested that the Board of Zoning Appeals grant a variance to allow the existing Garfield Avenue driveway to be improved as shown on the attached Site Plan as it is the property's sole access point on Garfield Avenue and cannot be moved to the north or south due to the short length of property frontage on Garfield Avenue. Additionally, the driveway location cannot be changed without moving closer to one of the drives on the adjacent properties. Sharing driveways with sites to the north and



south is also prohibitive due to the close proximity of the drives on the property to the north (Bardon's Ice Cream) to the Garfield Avenue/Front Street intersection and topographic changes to the south.

The improvement of the existing driveway also provides means for vehicles to leave the site and, using the traffic light at the Garfield Avenue/Front Street intersection to turn left, drive west on Front Street (U.S.-31). The Michigan Department of Transportation (MDOT) has required that the proposed Front Street (U.S.-31) driveway on the site prohibit left turns onto U.S.-31. Please refer to the attached correspondence between MDOT and the City of Traverse City for additional detail. This correspondence also indicates that the vehicular access within the City alley right-of-way could be required to prohibit left turns onto U.S.-31 if safety concerns are present.

Additionally, we believe that the proposed driveway location meets the requirements of items A-D established for reduction in driveway spacing identified in Section 1374.04 paragraph (e) subparagraph (3) of the Ordinance as follows.

- A. The character of the street and neighborhood will not be diminished or negatively impacted as there is already an existing driveway in this location. The existing driveway does not comply with existing design standards and the proposed improvements to the driveway and site, including new landscaping, will improve the aesthetic character of the Garfield Avenue corridor.
- B. The use of the Garfield Avenue driveway is necessary to provide safe and efficient passenger vehicle traffic to and from the site and accommodate the turning and maneuvering movements necessary for the large trucks typically used deliver goods and materials to uses allowed in the C-3 zoning district.
- C. The continued use of the property's existing Garfield Avenue driveway aligns with the purpose of Chapter 1374 of the Ordinance by:
  - Making access to the site safe and accessible for pedestrians, cyclists, drivers, and passengers.
  - Reducing the potential for crashes by providing a way for vehicles to exit the site and drive west on U.S.-31 instead of making a prohibited left turn from the U.S.-31 driveway out of convenience.
  - Creating a more interesting street edge that promotes people to walk by incorporating landscaping and decorative screening walls adjacent to the drive.
- D. The improved design of the existing driveway meets current design standards that improve the safety of potential users of the driveway, Garfield Avenue, and sidewalk.

We believe that the improvements to the existing Garfield Avenue driveway for this project provide the most efficient and safe means of vehicular access to the project site and hope that the BZA receives this variance request favorably. If you have any questions, please feel free to call me at (231) 946-9310 ext. 1008 or email me at dusty@maaeps.com.

Sincerely,

Mansfield Land Use Consultants

Dusty Christensen, LLA

Enclosures:



June 30, 2016

The City of Traverse City Board of Zoning Appeals 400 Boardman Avenue Traverse City, MI. 49684

## RE: Proposed Rite Aid and Starbucks Development 1106 E. Front St. - Zoning District: C-3

Hearing for variance regarding the improvement of an existing driveway on Garfield Avenue requesting dimensional relief from the prescribed distance between driveways.

## Itemized list of responses to Board of Appeals Chapter 1324.05 Powers & Duties pertaining to subsection (d) variance language:

- (d) Variances. The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Code. A variance from the dimensional requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.
- (1) **Basic conditions.** Any variance granted from this Zoning Code shall meet the following basic conditions:
  - (A) The spirit of this Zoning Code shall be observed, public safety secured and substantial justice done.

#### **RESPONSES:**

- 1. The existing Garfield Avenue driveway at 1106 E. Front St. was constructed decades ago and, in its current location, is within approximately 86' and 68' from the nearest driveways to the north and south, respectively. The proposed reconstruction of the driveway provides approximate driveway separation of 72' and 76' between the driveways to the north and south, respectively.
- 2. The proposed reconstruction of the Garfield Avenue driveway would comply with the design and safety standards of the City of Traverse City Fire Department and Engineering Departments. After reviewing the proposed plans for this project, the Fire Marshall indicated that the proposed Front Street (U.S.-31) driveways for this property and the adjoining property are acceptable so long as egress to Garfield Avenue remains unobstructed and satisfies the dimensional requirements for the Fire Department's equipment. Additionally, the Michigan Department of Transportation (MDOT) has provided correspondence to the City indicating that it recommends this site



have access on Garfield Avenue to improve the efficiency and safety of traffic movements entering and leaving the site. Therefore, the proposed improvements to the Garfield Avenue driveway maintain public safety through safer traffic movements and the ability of emergency services to access the property.

(B) There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.

#### **RESPONSE:**

- 1. It is unlikely that the reconstruction of the Garfield Avenue driveway would have adverse effect on property values in the immediate vicinity as the existing drive has been in place for such a long time and the proposed improvements, including landscaping and screening walls, enhance the aesthetic character of the site.
- (C) The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.

#### **RESPONSES:**

- 1. The physical characteristics of this property are unique in that the parcel has frontage on both Front Street and Garfield Avenue, but is not a true corner parcel. Another property is located at the southeast corner of Front and Garfield with the subject site bordering it on both the south and east. This adjacent corner parcel has two existing driveways. It is impractical to share access onto Garfield Avenue with the adjacent properties due to the close proximity of the north property's drives to the Front Street/Garfield Avenue intersection and grade changes between 1106 E. Front Street and the property to the south.
- 2. Due to current MDOT and Traverse City Fire Department standards, providing a driveway on Garfield Avenue is the most practical way to provide the safest and most efficient traffic patterns and ensure that emergency services can adequately access the site. Granting the requested dimensional variance would allow motorists to exit this property onto Garfield Avenue and utilize the traffic light at the Front/Garfield intersection to turn left to travel west on Front Street (U.S.-31). MDOT has required that the proposed Front Street (U.S.-31) driveway prohibit left turns for vehicles exiting the site.
- 3. The proposed location of the Garfield Avenue driveway cannot be altered to comply with the dimensional standards of the Ordinance due to the proximity of driveways on adjacent properties and the need to construct the drive's approach between the north and south property lines.



(D) The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.

RESPONSE:

- 1. Due to MDOT and City of Traverse City Fire Department standards and the location of the property, safety and traffic concerns are best addressed by providing a driveway on Garfield Avenue. See responses above.
- (E) It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.

  RESPONSE:
  - 1. Due to MDOT and City of Traverse City Fire Department standards and the location of the property, safety and traffic concerns are best addressed by providing a driveway on Garfield Avenue. See responses above.
- F) There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code. **RESPONSE:** 
  - 1. The dimensional variance has been requested in order to best comply with the standards of MDOT and the City of Traverse City Fire Department while developing the property for commercial use as allowed in the C-3 zoning district.
- (G) The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.

  RESPONSE:
  - 1. The dimensional variance requested is not requested for financial gain but rather to address the practical matter of providing appropriate access for emergency services to access the site and to alleviate safety concerns related to traffic on the busy streets surrounding the property.
- (H) It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.

#### **RESPONSE:**

1. The decision to seek relief from the prescribed driveway separation distance was made in an effort to provide the safest and most efficient access to the property, comply with MDOT ingress/egress requests, and provide adequate access to the property for emergency vehicles.





Dave Weston <a href="mailto:dweston@traversecitymi.gov">dweston@traversecitymi.gov</a>

### Pharmacy/Coffee Shop/Retail Site at US-31 and South Garfield

1 message

Wiest, Jeremy (MDOT) <WiestJ@michigan.gov>
To: Dave Weston <dweston@traversecitymi.gov>
Cc: "Liptak, Rick (MDOT)" <LiptakR@michigan.gov>

Wed, Jun 22, 2016 at 1:22 PM

Dave.

I have discussed this location with Rick (our TSC manager) and based on our discussion we conclude that the property at the SE corner of US-31 and South Garfield needs to retain access onto South Garfield.

If you need anything else let me know.

Thanks!

Jeremy

## Jeremy R Wiest, P.E.

#### Permit Engineer

Michigan Department of Transportation

Traverse City Transportation Service Center

2084 US-31 South, Suite B

Traverse City, MI 49685

Phone: 231-941-1986





#### Dave Weston <a href="mailto:dweston@traversecitymi.gov">dweston@traversecitymi.gov</a>

### **US-31 (Front Street) at Garfield - Rite aid and Starbucks**

Lajko, Mary (MDOT) < LajkoM@michigan.gov>

Thu, May 19, 2016 at 1:38 PM

To: "dweston@traversecitymi.gov" <dweston@traversecitymi.gov>

Cc: "Liptak, Rick (MDOT)" <LiptakR@michigan.gov>, "Wiest, Jeremy (MDOT)" <WiestJ@michigan.gov>, "Tim Lodge (tlodge@traversecitymi.gov)" <tlodge@traversecitymi.gov>, Russ Soyring <RSoyring@traversecitymi.gov>

Dave and Traverse City Planning and Engineering Staff,

Thank you for taking the time to speak with me this morning regarding the subject development. I wanted to take a moment and recap our conversation in this email.

We have provided to the developer and City what MDOT will allow for access to this development off of US-31. Two driveways have been requested and due to the close proximity to a signalized intersection we have restricted turning movements into the two driveways.

The "westerly" driveway is to be constructed so that the left turn movement out of the development is prohibited. MDOT staff will continue to work with the developer and their consultant on the required geometry for this driveway.

It appears the outstanding issue is the "easterly" driveway which we have indicated is to be a right-in-right-out only. This driveway would be constructed within a public alley that falls under the jurisdiction of the City of Traverse City. The intent by the developer is to have full access to this driveway/alley. Due to operational and safety concerns and given the close proximity to the signalized intersection, we have been clear that we will require a Traffic Impact Study (TIS).

I have discussed with the Rick Liptak, Manager of the Traverse City TSC an alternative to the TIS and we offer the following: The City of Traverse City would need to agree to construct geometric changes to the driveway if safety concerns develop as a result of a full use driveway. Safety concerns would be determined by MDOT following established procedures as laid out by the Department.

A Memorandum of Understanding from the City of Traverse City to the Michigan Department of Transportation agreeing to this term would be required. If the full use is allowed the Memorandum will be required before MDOT issues a permit to the developer for this project. If this is acceptable please let me know. Also please confirm if we still need to meet Monday, May 23.

Thank you,

Mary C. Lajko



"Business of Quality and Service" "Charlevoix-the-Reautiful" haggardsinc@hotmail.com

Date: June 28, 2014

To: Traverse City Board of Zoning Appeals 400 Boardman Avenue Traverse City, MI 49684

Re: For Applicant Northporte Development to construct a pharmacy, retail building and coffee shop with a drink-through located on South Garfield Avenue

To whom it may concern:

Upon reviewing the above Notice of Public Hearing of Appeals, I would like to express my support with the above request of the owner. Haggard's Plumbing & Heating is not at all opposed to the changes of their property, and/or the request to Zoning Board. If a property owner is fortunate enough to have the ability and the resources in this time of economical struggles to either build and/or improve their existing property, we would like to see their request granted. It would prove positive for the local, county, state and country to do all we can to improve and promote growth in any way possible.

Sincerely,

Haggard's Plumbing & Heating

